

(PCT Article 36 and Rule 70)

Date of submission of the demand	Date of completion of this report
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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/052630

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-10 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-12 _____ received by this Authority on 05.10.2005 with letter of 04.10.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/1 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>1-12</u>	YES
		Claims _____	NO
	Inventive step (IS)	Claims _____	YES
		Claims <u>1-12</u>	NO
	Industrial applicability (IA)	Claims <u>1-12</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
1.	This report makes reference to the following documents:		
	<p>D1: EP-A-1 096 770 (AVAYA TECHNOLOGY CORP) 2 May 2001 (2001-05-02)</p> <p>D2: SCHULZRINNE H ET AL: "Signaling for Internet telephony" NETWORK PROTOCOLS, 1998. PROCEEDINGS. SIXTH INTERNATIONAL CONFERENCE ON AUSTIN, TX, USA 13-16 OCT. 1998, LOS ALAMITOS, CA, USA, IEEE COMPUT. SOC, US, 13 October 1998 (1998-10-13), pages 298-307, XP010309377 ISBN: 0-8186-8988-9</p>		
2.	The present application fails to meet the requirements of PCT Article 33(1) because the subject matter of claims 1, 11 and 12 does not involve an inventive step within the meaning of PCT Article 33(3).		
2.1	D1 is considered to be the prior art closest to the subject matter of claim 1. D1 (the references in parentheses are to D1) discloses:		

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	<p>method of reducing processing costs for useful data transmitted in the direction of a communications device in cases (column 2, lines 22-24) in which, within the framework of a service, a bidirectional connection is made between the communications device and a communications partner instance (column 3, lines 31-36) although no useful data connection to the communications device is required for the service (column 2, lines 24-29 and column 3, lines 37-39), and therefore at least a portion of the useful data is discarded prior to implementation of at least some of the working steps provided for the processing of useful data (column 3, lines 39-45), and information is transmitted from the communications device to the communications partner instance (column 3, lines 48-53).</p> <p>Thus the subject matter of claim 1 differs from the known method in that the transmitted information simulates error-free transmission of useful data from the communications partner instance to the communications device.</p> <p>The problem to be solved can therefore be regarded as that of preventing an error response from the communications partner instance as a result of useful data being discarded by the communications device.</p> <p>In D1 (D1, paragraph [0012], "...notifies the far-end party that the near-end device is discarding</p>

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	<p>the listen stream...") is disclosed that the other end is notified about the modification of the data stream by the exchange of a message. The purpose of this message is clearly only that of preventing an error response from the other end.</p> <p>Furthermore, the aforementioned distinguishing feature is disclosed in D2 (D2, page 306, right-hand column, lines 12-15). A person skilled in the art would use this feature also in the method according to D1 and in this manner arrive at a method that corresponds to claim 1, without thereby being inventive.</p> <p>The subject matter of claim 1 therefore does not involve an inventive step (PCT Article 33(3)).</p> <p>2.1 Furthermore, D1 (the references in parentheses are to D1) discloses a communications system for carrying out a method according to one of claims 1 to 10 (figure 1), said system comprising a filter for identifying useful data transmitted from the communications partner instance to the communications device (column 2, lines 38-40).</p> <p>Means for transmitting information to the communications partner instance which simulates error-free transmission of useful data from the communications partner instance to the communications device are implicitly known from D2 (D2, page 306, right-hand column, lines 12-15).</p> <p>The subject matter of claim 11 therefore does not</p>

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	<p>involve an inventive step (PCT Article 33(3)).</p> <p>2.3 Lastly, D1 (the references in parentheses are to D1) implicitly discloses a router for carrying out a method according to one of claims 5 to 10 (column 1, lines 45-48), comprising means for discarding useful data packets transmitted from the communications partner instance to the communications device (column 2, lines 33-38 and column 1, lines 48-50).</p> <p>Means for transmitting information to the communications partner instance which simulates error-free transmission of useful data from the communications partner instance to the communications device are implicitly known from D2 (D2, page 306, right-hand column, lines 12-15).</p> <p>The subject matter of claim 12 therefore does not involve an inventive step (PCT Article 33(3)).</p> <p>2.4 In conclusion, it should be noted that the present description contains embodiments regarding the information transmitted to the communications partner instance which, if appropriately taken into account in the independent claims, could substantiate an inventive step for the subject matter.</p> <p>3. Dependent claims 2 to 10 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT</p>

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	<p>requirements for novelty and inventive step. The features of these claims are either directly known from D1 and D2 or are design variants that are obvious and generally known to a person skilled in the art:</p> <p>Claim 2: D1 discloses as communications devices both information output systems and distribution systems (D1, column 2, lines 24-29 and figure 1, (112) and (113)).</p> <p>Claim 3: D1 discloses terminals as a communications partner instance (D1, figure 1, (110) and (111)). Gateways are also known communication instances.</p> <p>Claim 4: D1 discloses transmission through a packet-oriented network (D1, figure 1, (105) and paragraph [0010]).</p> <p>Claim 5: The discarding of useful data packets by means of a router provided upstream is design variant that is implicitly disclosed by D1 (D1, column 1, lines 45-50 and column 2, lines 33-38).</p> <p>Claim 6: The discarding of incoming useful data packets by the communications device is disclosed by D1 (D1, column 3, lines 39-45).</p> <p>Claims 7: Identifying data packets by means of their port address is a conventional measure.</p> <p>Claim 8: Transmitting useful data packets by means of RTP is known from D1 (D1, column 6, lines 45-47).</p> <p>Claim 9: Since useful data are discarded by the communications device, it seems obvious that the transmitted information affects the transmission quality of the useful data transmission.</p>

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	<p>Claim 10: The RTCP protocol is known from D2 (D2, 3.8) .</p>

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Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

Contrary to PCT Rule 5.1(a)(ii), the description does not cite D1 and D2 or indicate the relevant prior art disclosed therein.